

SR NO.: 13542

MARTIN GUEVARA-PMK CORPORATION APRIL 7, 2011

1 STATES DISTRICT COURT

2 FOR THE CENTRAL DISTRICT OF CALIFORNIA

3 WESTERN DIVISION

4
5 UNITED STATES OF AMERICA,)

6 Plaintiff,)

7 vs.)

Case No. CR08-1201-ODW

8 RUBEN CAVAZOS, aka "Doc," et)
9 al.,)

10 Defendants.)
11
12
13

14 DEPOSITION OF MARTIN GUEVARA, taken on behalf of
15 the Plaintiff, at 312 North Spring Street, Room 1302, Los
16 Angeles, California, commencing at 10:11 a.m., on Thursday,
17 April 7, 2011, reported by BARBARA NILES, CSR No. 13542, a
18 Certified Shorthand Reporter for the State of California,
19 pursuant to Notice.
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25

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INFORMATION REQUESTED

(None)

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MARTIN GUEVARA-PMK CORPORATION APRIL 7, 2011

1 Los Angeles, California, Thursday, April 7, 2011

2 10:11 a.m.

3
4 MARTIN GUEVARA,

5 called as a witness on behalf of the Plaintiff, having been
6 administered an oath in accordance with C.C.P. Section 2094,
7 was examined and testified as follows:

8
9 EXAMINATION

10 BY MR. WELK:

11 Q Good morning, Mr. Guevara. My name is Steve Welk.
12 I'm the assistant U.S. attorney responsible for this case.
13 Sitting here with me is ATF Special Agent John Ciccone. And
14 then you know the people you brought with you.

15 Have you ever been deposed before?

16 A No.

17 Q All right. Have you had an opportunity before
18 now -- without telling me any of the contents of any
19 discussions you might have had, have you had an opportunity
20 to talk to your lawyer about why you're here today?

21 A Yes.

22 Q Okay. What I'm going to do -- some of these
23 things may be repeats of what your attorney has already
24 talked to you about, but I want to make sure that you
25 understand what the parameters are that are applicable to

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1 what we're doing here today. So I'm going to go through
2 some preliminary instructions and as you -- as we go along,
3 if you understand them.

4 The first thing -- one of the things I'm going to
5 tell you is that you should make an effort to talk slowly so
6 that the court reporter can take down everything that's
7 said.

8 Are you currently on any medications or under the
9 influence of any substance?

10 A No.

11 Q All right. Is there any condition that you're
12 aware of that you think might affect your ability to testify
13 accurately today?

14 A No.

15 Q All right. So is there any reason why we cannot
16 go forward with this deposition?

17 A No.

18 Q Okay. You've taken an oath that the court
19 reporter has just administered to you that requires you to
20 testify truthfully. Despite the fact that we're in a
21 informal setting here without a judge or a jury present, the
22 oath that you've taken requires you to testify as if you
23 were in court before a judge and jury.

24 Do you understand that?

25 A Yes.

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1 Q Do you know what "perjury" means?

2 A I have an idea of what it means.

3 Q What do you understand it to mean?

4 A I guess if I don't tell the truth, I could be
5 charged with perjury.

6 Q Okay. And that that's a crime?

7 A Correct.

8 Q And did you know what perjury meant in December of
9 2008?

10 MR. STEELE: Objection. What's the point of this?

11 MR. WELK: Are you going to instruct him not to answer?

12 MR. STEELE: I instruct him to take the Fifth, but we
13 can work it out before or we can just move on.

14 MR. WELK: You can take the Fifth if you want. He
15 signed a declaration in December of 2008 under penalty of
16 perjury. I want to make sure he understood what he was
17 doing.

18 MR. STEELE: That's all I wanted to know.

19 Go ahead and answer.

20 THE WITNESS: Yes.

21 BY MR. WELK:

22 Q Okay. Everything that is said by anyone in this
23 room while we're on the record is going to be taken down by
24 the court reporter right here in real time. "On the record"
25 means that we're actively engaged in the deposition as we

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1 are right now. If we go off the record, there will be an
2 agreement. There has to be an agreement by both sides that
3 we're going to go off the record.

4 So if one person says, "I want to go off the
5 record," we will -- the court reporter will continue to take
6 everything down unless the other side -- talking mainly
7 about the attorneys here -- agrees to go off the record.

8 Do you understand that?

9 A Yes, I do.

10 Q Everything that is said by everyone in the room
11 will be taken down. After this deposition is over, the
12 court reporter will prepare a transcript of what was said
13 here on the record. You'll be given an opportunity to read
14 that over. And at that time you'll be allowed to make any
15 changes or adjustments to your testimony that you feel are
16 necessary.

17 I will caution you that you need to be careful
18 when you're here today, to listen carefully to my questions,
19 and try and answer them as completely and truthfully as you
20 can because if you make important changes later, after the
21 deposition has been completed, I'm able to comment on those
22 later on.

23 And that may affect your credibility at any later
24 proceeding because, for example, if you change a "yes" to a
25 "no," or you change "I don't know" to include some

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1 substantive information, I may argue that you intentionally
2 didn't answer the question when you were at the deposition
3 so you could think about it and decide what you were going
4 to answer later.

5 Do you understand that?

6 A Yes.

7 Q Now, you do have to testify truthfully. But if
8 you don't remember something or you don't know the answer to
9 a question, "I don't know" or "I don't remember" is a
10 perfectly acceptable answer as long as it's true.

11 If you don't know the answer to a question, then
12 you should tell me you don't know. If you don't remember
13 something I have asked you, tell me you don't remember.

14 However, I am entitled to your best estimate if
15 you have some basis for answering the question. I don't
16 want you to guess at anything, but I am entitled to an
17 estimate if you can give me a reasonable estimate.

18 An example of that is if I would have asked you
19 yesterday how many chairs are there in the room in which
20 you're going to be deposed, you, having never been in this
21 room before, would have no idea how many chairs were in this
22 room. You couldn't answer that question. You'd have to
23 say, "I don't know."

24 If I ask you tomorrow how many chairs were in the
25 room in which you were deposed -- presumably, even if you

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1 don't know the exact number of chairs that were in here, you
2 would be able to give me some estimate based on your
3 experience in being here as to how many chairs were in the
4 room. Even if that answer was there were more than two or
5 there were less than a hundred -- if you can make an
6 estimate, I'm entitled to that estimate.

7 Do you understand that?

8 A Yes.

9 Q Okay. In terms of our discussion back and forth
10 here, while we're having something that's sort of seems like
11 a conversation, it's not really a conversation, the kind
12 that people would normally have with each other. And the
13 fact that it's being taken down by the court reporter is so
14 that we have a record of what is said here during the entire
15 course of this proceeding.

16 Because we want the record to be clear, it's
17 important that we only talk one person at a time. There's a
18 couple of things that people do regularly in conversation
19 that sometimes cause a problem in depositions. One of them
20 is sometimes we have a tendency to answer with gestures or
21 with nonverbal responses like uh-huh or uh-uh. Those are
22 impossible to interpret in a transcript.

23 So I'm going to ask you to try and keep in mind as
24 we go along, to try and remember to give verbal answers like
25 yes or no. Try not to answer with any gestures or anything

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1 like that. Now, sometimes that's going to happen. It
2 always happens. Everybody does it. It's not anything to be
3 worried about, but there will be times -- there may be times
4 -- in every deposition I've ever done, there are times where
5 either Mr. Steele or I will -- after you've answered a
6 question -- will say yes or no. We'll suggest to you what
7 we think your answer is because you've given a nonverbal
8 response.

9 We're not trying to criticize you or make you
10 nervous or anything. We're just trying to keep a clear
11 record. Okay?

12 A I understand.

13 Q All right. The other thing is sometimes when I'm
14 asking you a question, it's going to be really obvious to
15 you early on in my question what I'm about to ask you. And
16 sometimes we have a tendency in normal conversation to jump
17 ahead and answer a question to save time. That messes up
18 the transcript. I'll ask you to try and wait until I've
19 completely finished my question before you begin your
20 answer, and I'll try to do the same for you. I'll try to
21 wait until you've completed your answer before I start my
22 next question. Okay?

23 A Okay.

24 Q If you answer a question during this deposition,
25 I'm going to assume that you understood what I asked you.

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1 If I ask you a question and you do not understand what I
2 asked you either because you don't understand the words I
3 used or you just don't understand what I'm trying to get at,
4 feel free to tell me that you don't understand the question.
5 I'll try and rephrase it so that it makes more sense to you.
6 Okay?

7 A Okay.

8 Q The purpose of this proceeding today is for me to
9 ask you questions about your personal knowledge. And when I
10 say the "proceeding today," I mean the proceeding this
11 morning because as I understand it, you're also going to be
12 testifying this afternoon on behalf of the corporation; is
13 that right?

14 MR. STEELE: He's having a deposition as the PMK
15 pursuant to subpoena.

16 MR. WELK: Okay. All right.

17 BY MR. WELK:

18 Q So what you're talking about here this morning --
19 what I'm going to be asking you about this morning is your
20 personal knowledge of and involvement in the facts
21 surrounding the transfers of the registered collective
22 membership marks of the Mongols and the incorporation of the
23 entity known as Mongols Nation Motorcycle Club, Inc., which
24 I will refer to as MNMC. Okay?

25 A Okay.

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1 Q All right. Now, later on today, you're going to
2 testify as a person most knowledgeable on behalf of the
3 corporation. So I'm going to be asking you things in the
4 afternoon that you may not necessarily have personal
5 knowledge of but that the corporation should know. That's
6 not what I'm doing this morning. I'm only asking you things
7 about -- things that you did and things that you know.

8 Okay?

9 A I understand.

10 Q Are you a current member of the Mongols?

11 A Yes.

12 Q What does that mean? What does membership in the
13 Mongols mean?

14 MR. STEELE: Objection. Vague.

15 BY MR. WELK:

16 Q Do you understand the question?

17 A I understand what you're asking.

18 Q Okay. Then you can go ahead and answer.

19 MR. STEELE: I object. That's vague. Speculation. I
20 mean, what are you -- is this existential in nature, or
21 what? I mean, you're asking -- is there a membership
22 procedure? You've got to be more specific. I'm going to
23 instruct him not to answer until he understands the question
24 to my satisfaction.

25 MR. WELK: He said he understood the question.

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1 MR. STEELE: Do you understand the question?

2 THE WITNESS: Can you rephrase it or reword it or ask
3 it again? I'm sorry.

4 BY MR. WELK:

5 Q Are you a member of the Mongols?

6 A Yes.

7 Q What does that mean to you, that you're a member
8 of the Mongols?

9 A That I signed up to be a member.

10 Q And how did you sign up?

11 A I filled out an application.

12 Q When did you fill out an application?

13 A In approximately October of 1997.

14 Q And is that all you had to do, was fill out an
15 application, and you became a member?

16 A Yes. For me? Yes.

17 Q Did you have to be sponsored or anything?

18 MR. STEELE: If you know.

19 THE WITNESS: I did not have to be sponsored, no.

20 BY MR. WELK:

21 Q Did you have to prospect?

22 A No.

23 Q Do you know why you didn't have to prospect?

24 A We were a new chapter.

25 Q What chapter was that?

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1 A Pico.

2 Q Were you ever a member of another chapter?

3 A No -- oh, scratch that. Yes. Years later, I was
4 a member of So Cal.

5 Q What's the difference between those chapters?

6 A The name. One's been in existence longer than the
7 other.

8 Q Does the Pico still exist?

9 A Does it still -- yes, it does.

10 Q Why did you change from one to another?

11 A I'm sorry. I also was from a nomad chapter. Pico
12 Nomad.

13 (Discussion off the record)

14 THE WITNESS: So from Pico Chapter I went to Pico
15 Nomad. From Pico Nomad I went to So Cal.

16 BY MR. WELK:

17 Q Okay. Why did you change from Pico to Pico Nomad?

18 A I was asked to be in that chapter.

19 Q In the Pico Nomad Chapter?

20 A Oh, in Pico Nomad I'm semiretired. Like, it's
21 a -- where a member is semiretired. You're not -- you're
22 not really active.

23 Q Well, what's the difference between being active
24 and being semiretired?

25 A Active is I donate dues to the club as being

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1 active.

2 Q And semiretired you don't?

3 A Correct.

4 Q Any other differences?

5 MR. STEELE: Objection. Vague.

6 MR. WELK: I should say a word. I'll interrupt you for
7 a moment. I'll say a word about objections. At times
8 during the course of this deposition, your attorney may
9 state objections to questions that I've asked. Under the
10 rules he's certainly entitled to do that. It has to do with
11 whether or not the material that's in the deposition is
12 going to be allowed to be used later on -- usually,
13 evidentiary objections.

14 There are limitations in the rules on when an
15 attorney can instruct the client not to answer a question.
16 I'm not going to get into what those are because I'm sure
17 Mr. Steele and I probably disagree about what those are.

18 THE WITNESS: Okay.

19 MR. WELK: But I'll let you know that the mere fact
20 that an objection is made does not mean that you should not
21 answer the question or that you cannot answer the question.
22 So when Mr. Steele makes an objection, you should -- unless
23 he tells you otherwise, you should go ahead and answer the
24 question unless you don't understand it.

25 Generally, when he makes an objection, I'm going

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1 to ask you, "Did you understand the question?" If you tell
2 me you did, then I'm going to expect you to answer it unless
3 Mr. Steele tells you not to answer it.

4 If he tells you not to answer it, then he and I
5 will undoubtedly engage in an exchange on the record as to
6 why I think his instruction is invalid, and he'll tell me
7 why he thinks it is valid. And then we'll go from there.

8 But just as a general point, the mere fact that an
9 objection is made doesn't mean you shouldn't answer the
10 question. But it's probably always a good idea to check
11 with your lawyer before you do to make sure he wants you to
12 answer it. Okay?

13 THE WITNESS: Okay.

14 BY MR. WELK:

15 Q All right. So you said that the difference
16 between Pico and Pico Nomad was that in Pico you were active
17 and in Pico Nomad you were semiretired. And you said that
18 the difference between those two statuses was that active
19 you paid dues and semiretired you didn't.

20 Were there any other differences between those two
21 types of membership?

22 A When, for example, going to a party or an event, a
23 club event, usually a chapter will be -- have to be there at
24 a certain time or they're, you know -- they're asked to be
25 there at a certain time. Me, being from the chapter, I -- I

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1 could come and go as I please without, you know. I didn't
2 have to sit for a meeting if I didn't want to. I could
3 leave.

4 Q As semiretired, were you still required to attend
5 the national runs?

6 A No.

7 Q Now, why did you join the So Cal Chapter?

8 A I was asked to.

9 Q Were you an active member when you were in the So
10 Cal Chapter?

11 A Yes, I could -- I guess I could be considered
12 active.

13 (Discussion off the record)

14 THE WITNESS: Yes.

15 BY MR. WELK:

16 Q When was it that you joined the So Cal Chapter?

17 A Approximately July of 2008.

18 Q And what was your motivation for joining that
19 chapter?

20 A I was asked by a good friend.

21 Q Who is that?

22 A Hector Gonzalez.

23 Q Was Hector Gonzalez the national president of the
24 Mongols at that time?

25 A Yes. Well, I'm sorry. He became national

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1 president around that time.

2 Q Okay. Who was the national president before that?

3 A Cavazos.

4 Q Ruben Cavazos?

5 A Ruben Cavazos.

6 Q Also known as "Doc"; right?

7 A Correct.

8 Q How do you characterize the Mongols organization
9 now?

10 MR. STEELE: Objection. That's vague.

11 BY MR. WELK:

12 Q Do you understand the question?

13 A Yes.

14 Q Go on.

15 A As motorcycle enthusiasts.

16 Q You've been a member since 1997; right?

17 A '98.

18 Q '98. Do you --

19 A I'm sorry. You're right. Scratch that. '97.

20 Q In your opinion, is there any difference in the
21 nature of the organization now than there was when you
22 joined it?

23 A Yes.

24 Q What are the differences?

25 A I believe we're more businesslike, more organized.

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1 Q What do you mean by more "businesslike"?

2 A We have a -- the club has a federal tax ID now.
3 We were opened as a corporation, and it's very transparent
4 for the membership too. We're able to look at bank accounts
5 and file taxes and stuff like that.

6 Q And when did all those changes occur?

7 A I believe in -- probably about December of 2008.

8 Q Were there any differences in the nature of the
9 organization between 1997 when you joined and early 2008?

10 MR. STEELE: Vague.

11 THE WITNESS: That question, I don't understand.

12 MR. WELK: Okay. You don't understand.

13 BY MR. WELK:

14 Q Okay. Well, you said that you identified some
15 differences between what the organization was like between
16 1997 and now. You said that it's more businesslike, it's
17 more organized, and that you now have a federal taxpayer ID
18 number, it's more transparent, and that those changes
19 occurred in late 2008; right?

20 A Correct.

21 Q So I'm asking about early 2008 before all those
22 changes occurred. How did the nature of the organization --
23 how did it compare in early 2008 to the way it was when you
24 first joined in October of 1997?

25 MR. STEELE: It's asked and answered and vague as to

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1 nature. What do you mean by "nature"?

2 BY MR. WELK:

3 Q Do you understand the question?

4 A Yes.

5 Q Okay.

6 A I believe -- we -- I didn't have any knowledge of
7 what -- what the club was doing, about the business side of
8 the -- about the club. I didn't see the books. I wasn't --
9 we weren't privy to that. Doc did not have books. And when
10 it was handed over to Gonzalez, we hadn't -- we had nothing.
11 No paperwork, no nothing.

12 Q Did you know in early 2008 -- did you know that
13 the Mongols organization had registered trademarks?

14 A Did I know?

15 Q Yes.

16 A Yes.

17 Q How did you know that?

18 A I believe in 2005 we had a different cabinet, and
19 we were advised that a member had registered them, had
20 trademarked our logo and our name.

21 Q Now, was there any -- prior to that registration
22 of those marks, was there a vote taken amongst the
23 membership of whether that should happen?

24 MR. STEELE: Objection. Foundation.

25 Do you have a reason for knowing that?

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1 BY MR. WELK:

2 Q Do you understand?

3 A Yeah. Can I?

4 Q Sure.

5 A I mean --

6 MR. STEELE: We can step

7 MR. WELK: Wait a second. Be

8 caution you that conferring with your

9 a question pending, I will undoubtedly come

10 that's what you want to do --

11 MR. STEELE: Yeah, that's fine.

12 MR. WELK: -- you can do that. Okay.

13 MR. STEELE: That's fine.

14 MR. WELK: That's great.

15 THE WITNESS: I actually forgot the question now.

16 MR. WELK: Yeah. Well, I can ask it again if you'd

17 like.

18 MR. STEELE: Yeah. Well, let's get --

19 (Pause in the proceedings, 10:32 to 10:32)

20 MR. STEELE: Okay. There's no problems. Just reask
21 the question, and we'll get going from there.

22 THE WITNESS: Sorry about that.

23 BY MR. WELK:

24 Q This isn't an endurance contest here today. If
25 you need to take a break or need to go to the bathroom or

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1 something like that, we can take a break. I would
2 appreciate it if a break didn't happen when a question has
3 been asked because the implication can be made that when you
4 go talk to your attorney while there's a question pending
5 and then you come back and answer it, that your attorney
6 told you what the answer should be. I don't know that
7 that's what he did, but --

8 MR. STEELE: You know, I'd like to say for the record,
9 though, it's customary in depositions that whenever a client
10 needs to speak to his attorney, he's allowed to take a break
11 and do so for whatever reason he likes. Now, if you want to
12 put on the record your spin on what that is, go ahead. But
13 I'm going to put mine on it, which is it's customary in
14 depositions for a client to be able to speak to his attorney
15 at any time he wants to.

16 MR. WELK: And I want to make it clear, if I didn't,
17 that you can do that any time you want to. If you want to
18 go talk to your attorney every time I ask you a question,
19 you can do that; but it's going to impair your credibility.

20 MR. STEELE: And I would object to that as being
21 harassing.

22 MR. WELK: Okay.

23 Can you --

24 MR. STEELE: At any time you need to take a break; you
25 just take one; and we'll go out and talk.

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1 MR. WELK: Can you read back the last question, please.

2 (Record read)

3 THE WITNESS: No.

4 BY MR. WELK:

5 Q As a member, you didn't know anything about the
6 registration of the marks until after it had occurred;
7 right?

8 A Yes.

9 Q Did you --

10 A Actually, I believe there was talk about it when
11 it was getting done. But as far as being asked or voted my
12 opinion on it, no, I wasn't asked.

13 Q Okay. I'm going to put a document in front of
14 you. The first two are just to make sure that we all
15 understand what we're all talking about. The first one I've
16 marked is Exhibit 1, and I'll ask you if you recognize that.

17 (Plaintiff's Exhibit 1 was marked for
18 identification, the original of which is attached
19 hereto.)

20 MR. STEELE: Okay.

21 THE WITNESS: Yes, I do.

22 BY MR. WELK:

23 Q What is that?

24 A That is our -- the club name.

25 Q Okay.

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1 A Motorcycle club name.

2 Q And you understand that this is one of the
3 registered marks that are in dispute in this action that
4 we're involved in?

5 A Yes.

6 Q And I'm going to refer to this as the verbal mark
7 as we go forward. Okay?

8 A Okay.

9 Q The organization issues patches to its members
10 that have this word on it; correct?

11 A Yes.

12 Q And some of those patches that bear that mark are
13 used as what's called a "top rocker"?

14 A Yes.

15 Q Okay. And those --

16 A One of them, yes.

17 Q One of them. Right. And those are worn on vests
18 or jackets worn by members?

19 A Vests and T-shirts.

20 Q Who's qualified to wear a top-rocker patch?

21 A A member in good standing.

22 Q Does that person have to be a full-patched member?

23 A Yes.

24 Q And do you have -- well, strike that. We'll get
25 to that later.

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1 All right. This is Exhibit -- I've premarked this
2 as Exhibit 2. I'll ask you to take a look at that and tell
3 me if you recognize that.

4 (Plaintiff's Exhibit 2 was marked for
5 identification, the original of which is attached
6 hereto.)

7 THE WITNESS: Yes, I do recognize it.

8 BY MR. WELK:

9 Q What is it?

10 A It's our centered logo of our motorcycle club.

11 Q So your understanding is that that is another
12 registered mark of the organization?

13 A Correct. Yes.

14 Q And this is depicted on a patch as the center
15 patch on a member's vest; right?

16 A Yes.

17 Q Who is allowed to wear a patch with that image on
18 it?

19 A With both images?

20 Q With just the what I'm going to call the symbolic
21 mark, Exhibit 2. The picture.

22 A Members.

23 Q Anybody else?

24 A Not that -- not that I'm aware of, no.

25 Q Okay. Who is allowed to wear the two logos

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1 simultaneously together?

2 A Members in good standing.

3 Q And that's all; right?

4 A Correct.

5 Q Now, I understand from some of the declarations
6 that you've provided here in this case, that we'll get to a
7 little bit later, that these patches that bear these two
8 images, or this word and this image, that the right to wear
9 those is a limited license that's granted by the
10 organization; right?

11 MR. STEELE: Objection. Calls for a legal conclusion.

12 BY MR. WELK:

13 Q Do you understand the question?

14 A I'm not exactly sure what "limited license" means.

15 Q Do you recall using the term in a declaration that
16 you signed?

17 A Correct.

18 Q Did you understand it when you signed the
19 declaration?

20 A I was advised by my counsel at that time about --
21 when we wrote it up.

22 Q Okay. Were you comfortable when you read it that
23 you understood what it meant?

24 A Yes.

25 MR. STEELE: At that time.

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1 THE WITNESS: At that time.

2 BY MR. WELK:

3 Q Okay. But do you have some uncertainty now as to
4 what it means?

5 MR. STEELE: In the context of the question, yeah.
6 Just rephrase the question. It would probably be okay.

7 BY MR. WELK:

8 Q Do you know what -- what is a limited license to
9 you?

10 A That we control -- the -- the members -- the club
11 controls the marks, and we allow certain members to use it.

12 Q Okay. And does that also include the power to
13 prevent other people from using it?

14 A If they are not members?

15 Q Yeah.

16 A Yeah. If they're not members, then we -- we
17 wouldn't allow them to use it.

18 Q So if a bunch of guys in the San Fernando Valley
19 decided that they wanted to become a motorcycle club and
20 they started making up patches of those two marks and riding
21 around on motorcycles with those patches on the back of
22 their vests, in your view would your organization have the
23 legal authority to prevent them from doing that?

24 A I would seek counsel and see if we could get them
25 to stop using it or not even make them.

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1 Q Okay. So is it fair to say that your
2 understanding is that you could, through legal means,
3 prevent them from using those marks?

4 A I would like to think so, yes.

5 Q Okay. Now, what happens when -- has anybody ever
6 been kicked out of the Mongols organization?

7 A Yes.

8 Q And that's called "being out bad"; is that right?

9 A You're out in bad standing.

10 (Discussion off the record)

11 THE WITNESS: You're out in bad standing. Sorry about
12 that.

13 BY MR. WELK:

14 Q Okay. Now, when a member is out in bad standing,
15 do they get to keep their patches?

16 A No.

17 Q Do they understand that when they're given the
18 patches?

19 A Yes. On applications I believe it says --
20 there's -- there's a disclaimer on there that all patches
21 and any property given from the club to a member, if they
22 are no longer members, that it is club property and they
23 should -- it should be returned.

24 Q And in your experience is that a common practice,
25 when members are out in bad standing, that they're required

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1 to give their patches back?

2 MR. STEELE: In your knowledge.

3 THE WITNESS: As far as I know, yes. They give them
4 back. The -- an out member gives back his property. Some
5 have kept them.

6 BY MR. WELK:

7 Q Well, are those people asked to give them back?

8 A Yes.

9 Q Okay. But they just refuse?

10 A Yes.

11 Q All right. How many sets of these patches does
12 each member receive?

13 A One.

14 Q Is there any way to get another set?

15 A If it's confiscated by law enforcement.

16 Q Has that occurred, where you've issued -- where
17 the organization as issued replacement patches to people who
18 have had their patches confiscated?

19 A If they can afford it.

20 Q How much does it cost to buy the patches?

21 A I don't know at this time.

22 Q Did you ever know?

23 A I believe for a -- for a set, for everything,
24 front and back, it was approximately 325, I believe.

25 Q \$325?

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1 A Yes.

2 Q And who is that paid to?

3 A To the motorcycle club.

4 Q Now, when you say a full set, "front and back,"
5 what would that include?

6 A The -- the name of the front, Mongol name,
7 California -- or whatever state you're from. I believe your
8 chapter, your side rocker.

9 Q What's the side rocker?

10 A What chapter. Again, what chapter name you're --
11 you're going to -- signing up to. And a diamond, 1%
12 diamond, on the -- I mean, that's all I can remember.

13 Q Okay. What does the 1% diamond -- what does that
14 mean?

15 MR. STEELE: If you know.

16 THE WITNESS: The 1% diamond is -- it represents that
17 we're a club, motorcycle club.

18 BY MR. WELK:

19 Q Why does it say "1%"?

20 A Because there's -- there's only a certain percent
21 of motorcycle clubs out there, and the rest are, I guess,
22 that are not belonging to a club.

23 Q I'm sorry. I'm not sure I understand your
24 question -- I mean your answer.

25 Does the 1% significant -- first of all, you're a

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1 full member; right?

2 A Right.

3 Q You've got a full set of patches on
4 you have a vest?

5 A I do.

6 Q Okay. Do you have a full set of patches on your
7 vest?

8 A Yes.

9 Q You got the top rocker, the middle logo, and the
10 bottom rocker; right, on the back?

11 A Correct.

12 Q What's your -- bottom rocker says "California" on
13 it?

14 A Yes.

15 Q You got a side rocker?

16 A Yes.

17 Q What does that say on it?

18 A I believe it says "Pico Nomad."

19 Q Okay.

20 A I have two side rockers.

21 Q What does the other one say?

22 A One's Nomad, and other one's Pico.

23 Q I see. Okay. You got one --

24 A Or Pico and Nomad.

25 Q You have a one-percenter patch on there?

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1 A I believe so.

2 Q What does that mean to you? What's the
3 significance of 1%?

4 A That I belong to a motorcycle club, and I'm not a
5 independent.

6 Q So it could mean -- do you know if other
7 motorcycle clubs wear one-percenter patches?

8 A I -- I believe they do.

9 Q And that the only significance to that is that
10 you're in a motorcycle club?

11 A To me, yes.

12 Q Do you have any knowledge of whether that
13 one-percenter has other significance to other members of the
14 club?

15 A In my -- I couldn't say about that.

16 MR. STEELE: Objection. Foundation. He doesn't know
17 what anybody else is thinking.

18 BY MR. WELK:

19 Q I didn't ask you to say what other people are
20 thinking. I want to make it clear because Mr. Steele seems
21 to have misunderstood my question.

22 Do you have an understanding of what anybody else
23 thinks that -- or believes what it means to them? Have you
24 ever talked to any other member about what one-percenter
25 means to them?

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1 MR. STEELE: Calls for speculation.

2 MR. WELK: Not if he's talked to them. It doesn't call
3 for -- I'm not asking you to speculate.

4 BY MR. WELK:

5 Q I'm asking you if you've ever had a conversation
6 with any Mongol member.

7 MR. STEELE: That's a different question you asked
8 before now.

9 MR. WELK: I'm accommodating you, Mr. Steele. I'm
10 going to keep asking this question until Mr. Steele's happy
11 with it because I'm an accommodating kind of guy.

12 THE WITNESS: Good.

13 MR. WELK: And I want us all to be friends here.

14 BY MR. WELK:

15 Q So I'm wondering if since 1997 you've ever had a
16 conversation with anybody involved in the Mongols
17 organization about what one-percenter means to them?

18 A No.

19 Q Has anybody ever told you that the significance of
20 one-percenter means that people who wear this patch are
21 within the 1% of people who don't follow the general rules
22 of society and go their own way?

23 A Yes.

24 Q Who's told you that?

25 A The news. I've -- and I've read it again in the

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1 news.

2 Q You ever heard any --

3 A And --

4 Q -- member -- I'm sorry. I didn't let you finish
5 your answer.

6 A I've also read it in other motorcycle books -- or
7 outlaw motorcycle club books that people have written.

8 Q What is an --

9 A That people have written.

10 Q What is an "outlaw motorcycle club"?

11 MR. STEELE: If you know.

12 THE WITNESS: The way you just explained it, I'm
13 assuming, is they're -- society -- one percent -- 99 percent
14 of society is -- follows the straight and narrow. It
15 doesn't have its own political views. I guess that would be
16 my interpretation of it. And there's the one percent of us
17 that do that -- the motor -- that we -- when we signed up
18 for a motorcycle club, we chose that we were going to have
19 our beliefs.

20 BY MR. WELK:

21 Q And your beliefs are follow the straight and
22 narrow?

23 A Yes. I believe I should be able to go anywhere I
24 choose to go. And whether law enforcement or society
25 doesn't like the way I dress because I look a certain way, I

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1 should be -- still be able to be allowed and wherever they
2 go. I'm a tax-paying citizen.

3 Q Okay.

4 A And I work.

5 Q Okay. Now, you used the term "outlaw motorcycle
6 club."

7 A Yes.

8 Q What does that mean? What do you think that
9 means?

10 A Some -- some motorcycle clubs I would -- I would
11 assume they consider themselves outlaws such as the days of
12 old. So they ride. They ride crazy. They party crazy.
13 They don't care about what laws they break.

14 Q In your opinion or in your experience, have the
15 Mongols ever been that type of an organization?

16 MR. STEELE: Objection. Vague as to "that type of an
17 organization."

18 BY MR. WELK:

19 Q In your opinion, has the Mongols ever been an
20 outlaw motorcycle club?

21 A I believe we fall -- might fall into that category
22 in other people's eyes.

23 Q But what do you think. Based on your description
24 of what an outlaw motorcycle club is, do you think that the
25 Mongols, while you've been a member, have ever fallen into

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1 that category?

2 MR. STEELE: I'll tell you asked and answered. That's
3 exactly what he said. Next question.

4 BY MR. WELK:

5 Q Do you understand the question?

6 A I understand the question. I forgot the question
7 now, though.

8 MR. STEELE: It was asked and answered. What he asked
9 him is a question which he responded to with at -- sometimes
10 people have believed they have fallen into it. Then you
11 followed up with, "Do you think that they've ever" --
12 "people think they have fallen into it?" is exactly -- you
13 just read him back his own answer.

14 MR. WELK: I'll ask the court reporter to read back my
15 last question, please.

16 (Record read)

17 THE WITNESS: Like, to party and ride hard? Yes, I --
18 we like to party and so yes.

19 BY MR. WELK:

20 Q Okay. So you think that Mongols are -- have been
21 an outlaw --

22 THE WITNESS: I believe people will --

23 MR. STEELE: No. Mischaracterizes his answer.

24 MR. WELK: No, no. Now, hang on a second, now.

25

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1 the question?

2 A Yes.

3 Q I'd like you to answer it, please.

4 A I'd like to take the Fifth on this one.

5 Q Okay. All right. I'm going to show you now what
6 I'm going to attach as Exhibit 3 to your deposition, which
7 is a diagram --

8 A Okay.

9 Q -- headed "Mongols Outlaw Motorcycle Gang Vest
10 Insignia."

11 (Plaintiff's Exhibit 3 was marked for
12 identification, the original of which is attached
13 hereto.)

14 BY MR. WELK:

15 Q Now, I will begin by saying that I'm not going to
16 ask you to adopt the characterization of the Mongols as an
17 outlaw motorcycle gang. So I want to be as clear as
18 possible that in asking you these questions, I'm not
19 assuming or suggesting that that is your characterization of
20 that organization.

21 Do you understand that?

22 A Yes.

23 Q Okay. Now, I want to ask you, though, about some
24 of these patches on here and what they mean. We already
25 talked about one percent, and I just want to clarify that to

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1 you one-percenter means that one percent -- you're one
2 percent of the population that's in a motorcycle club?

3 A Correct.

4 Q All right. All right. On the right side of that
5 page, if you look at the boxes on the right side, there's a
6 skull and crossbones description. It's a diamond-shape
7 patch with a skull and crossbones.

8 Are you familiar with that patch?

9 A I've seen it before.

10 Q Do you have one of those?

11 A No.

12 Q Do you have an understanding of why someone -- and
13 based on your experience as a member of the Mongols -- do
14 you have an understanding as to why someone would be issued
15 one of those patches?

16 MR. STEELE: Based on your experience, not what the
17 document says.

18 MR. WELK: In case I didn't make that clear by
19 saying -- yeah, that's what I meant.

20 THE WITNESS: I'm sorry. One more time. Can you
21 repeat the question?

22 BY MR. WELK:

23 Q I'd love to. The skull and crossbones -- now,
24 again, I'm using the -- when I refer to the boxes, I'm not
25 asking you to adopt anything on this page because --

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1 A Okay.

2 Q -- this is a page that was prepared by the
3 government in connection with the criminal investigation
4 that we undertook with respect to this organization of which
5 you were a member. So the things that are on here, I'm not
6 necessarily asking you to adopt those things unless, of
7 course, you agree that that's what they're for.

8 So what I'm asking you, specifically -- you say
9 you're familiar with the diamond-shaped skull and crossbones
10 patch. Setting aside what it says here what that means, I'd
11 like you to tell me based on your experience as a full-patch
12 member of the Mongols since 1997, why would somebody be
13 issued a skull and crossbones patch like that?

14 MR. STEELE: I would object. If we're going to go this
15 route, I'm going to advise him take the Fifth on anything
16 regarding any aspect of the patch that's not at issue in
17 this word that you're -- which is the word mark and the
18 symbolic mark. I mean, I'm not trying to be difficult, but
19 you're going in a different direction. I've given you a lot
20 of leeway, and I've accommodated you. But at this point we
21 got to stop. So I'm going to advise him to take the Fifth.

22 MR. WELK: Okay.

23 BY MR. WELK:

24 Q You have testified that the club owns the word
25 "Mongols" and the image that is Exhibit 2; right?

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1 A Correct.

2 Q Are there any other words or images that the club
3 owns that is theirs alone?

4 MR. STEELE: Foundation -- objection. Foundation.

5 THE WITNESS: No.

6 MR. STEELE: Do you know?

7 THE WITNESS: Not -- I don't know.

8 BY MR. WELK:

9 Q What about "Respect Few. Fear None"?

10 A I don't know. I couldn't answer that.

11 Q Are you familiar with that phrase?

12 A Yes, I am.

13 Q Is that something that the club uses on patches?

14 MR. STEELE: Objection. I'm going to advise him to
15 take the Fifth. That mark is not at issue in this
16 litigation.

17 MR. WELK: Oh, but it's relevant.

18 MR. STEELE: I'll advise him to take the Fifth on it.

19 MR. WELK: Okay. All right.

20 BY MR. WELK:

21 Q Is there a patch issued by the gang -- or I'm
22 sorry -- by the club -- has there been a patch issued by the
23 club to commemorate the 2002 Laughlin shooting?

24 MR. STEELE: No. Objection. He's going to assert his
25 Fifth Amendment privilege on that.

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1 MR. WELK: You're instructing him not to answer?

2 MR. STEELE: Uh-huh.

3 BY MR. WELK:

4 Q And you're going to accept your attorney's advice
5 in that regard?

6 A Correct.

7 Q Mr. Guevara, can we agree that if your attorney
8 instructs you not to answer, that we should assume that you
9 are going to follow that advise and not answer unless you
10 state otherwise?

11 A Yes. I -- yes, I will listen to my attorney.

12 Q Okay. Well, I just want to save time. I don't
13 want to ask you every time if you're going to follow your
14 attorney's advice. So if it occurs that you are somehow --
15 or one time you're not going to take your attorney's advice,
16 I'll ask you to just go ahead and answer the question.

17 Okay?

18 A Okay.

19 Q In your experience as a -- on your vest that you
20 have as a member, do you have any colored wings patches on
21 your vest?

22 MR. STEELE: Take the Fifth.

23 THE WITNESS: I'll take the Fifth.

24 MR. WELK: On whether he even has any?

25 MR. STEELE: Yeah.

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1 MR. WELK: Okay.

2 MR. STEELE: We're way, way, way outside of what this
3 deposition is supposed to be about.

4 MR. WELK: Okay.

5 MR. STEELE: And I know how you guys do, so we're just
6 not going to go that route here. If you want to talk about
7 the mark and things relevant to the seizure, then let's do
8 that.

9 MR. WELK: Okay. Would you agree, Mr. Steele, that one
10 of the reasons we're here today is to talk about Mongols'
11 marks?

12 MR. STEELE: I'm not going to engage in a discussion
13 here. You ask your question and I'll object if it's
14 appropriate.

15 MR. WELK: Well, the reason I ask is because you're
16 telling me now what we're here to talk about. I want to
17 clarify what we're here to talk about. And it seems to me
18 that one of the things we're here to talk about are the
19 Mongols' marks.

20 MR. STEELE: Okay.

21 MR. WELK: You disagree?

22 MR. STEELE: Now, we're here to talk about the specific
23 marks at issue. Now, what you told the Court when you moved
24 for this was that the issue you wanted to address was the
25 ownership of the marks and the time frame for the ownership

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1 of the marks, the marks in question. That's what you
2 the Court in your pleading where you moved ex parte for
3 deposition.

4 MR. WELK: Uh-huh.

5 MR. STEELE: And that is what the Court based this on.

6 MR. WELK: Uh-huh.

7 MR. STEELE: Now, that's my understanding. Now, if
8 your question is about the general breadth of depositions, I
9 understand that too. But I also understand the Fifth
10 Amendment.

11 MR. WELK: Okay. Well, that's fine. I don't have any
12 -- listen, if he wants to take the Fifth Amendment, that's
13 fine with me.

14 BY MR. WELK:

15 Q Between the time you joined the Mongols as a
16 member and today, have you ever been an officer in a
17 chapter?

18 A Yes.

19 Q When were you first an officer in a chapter?

20 A In '97.

21 Q And that was when you were in the Pico Chapter?

22 A Yes.

23 Q What was your status?

24 A I believe when I joined, I was treasurer.
25 Secretary, slash, treasurer.

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1 Q What were your duties as secretary/treasurer of
2 the chapter?

3 A I collected dues and took roll call, members from
4 Pico, and the minutes.

5 Q What are the "minutes"? What does that mean?

6 A Whatever was discussed in our meeting.

7 Q Okay. Did all the members pay the same amount of
8 dues?

9 MR. STEELE: If you know.

10 THE WITNESS: In my chapter we -- we had -- every
11 member in my chapter had to pay whatever our chapter said
12 for dues.

13 BY MR. WELK:

14 Q But did every member pay the same amount?

15 A I don't know. I -- I -- it wasn't a rule.

16 Q Well, you were responsible for collecting the
17 dues; right?

18 A Right.

19 Q How did you know how much to collect from your
20 members?

21 A I -- I believe at the time it was -- \$5 went to be
22 a member -- was to be a member at the time, and \$2 was set
23 up for, like, a defense fund. So as long as we -- we
24 covered that at the end of the month to give to So Cal.

25 Q Was there ever something called the "Mother

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1 Chapter"?

2 A They refer to it as -- members sometimes refer to
3 So Cal Chapter as Mother.

4 Q I see. So you collected dues on a monthly basis?

5 A Weekly.

6 Q Weekly. And did every single member pay the same
7 amount every week?

8 A In my chapter, yes.

9 Q Based on your knowledge and experience, were there
10 different amounts collected in other chapters?

11 MR. STEELE: Okay. We're going far field here.

12 THE WITNESS: I don't --

13 MR. STEELE: It's got nothing to do with the marks.

14 Take the Fifth on this.

15 BY MR. WELK:

16 Q So when you rejoined as an active member, you were
17 a member of the Mother Chapter; is that right?

18 MR. STEELE: Go ahead answer.

19 THE WITNESS: From -- from Pico -- from Pico Nomad I
20 went to So Cal.

21 BY MR. WELK:

22 Q And you went from -- because you went from being
23 semi-retired to being active again; right?

24 A Correct.

25 Q Did Pico Nomad have officers?

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1 MR. STEELE: Okay. At this point I'm going to instruct
2 him to take the Fifth, and I'm going to keep doing so until
3 we get on the subject that you said you were going to cover
4 when you asked the Court for leave to take this deposition.
5 Now, I'm letting everything go to a certain point because I
6 think there are --

7 MR. WELK: He --

8 MR. STEELE: Wait. Let me finish. I think you're
9 justified on foundational grounds to show that he has reason
10 for knowing certain things. But you're getting into all
11 sorts of other things here, and that's just not the scope of
12 the deposition here.

13 MR. WELK: The scope of the deposition includes the
14 reason why we're litigating this, and that is the ownership
15 claim of the Mongols Nation Motorcycle Club. Mister --

16 MR. STEELE: And we've talked precious little about
17 that.

18 MR. WELK: Oh, wait. It's my turn. He submitted two
19 sworn statement in this case -- two of them -- declarations
20 sworn under penalty of perjury. And he covered his
21 responsibilities as a member of this gang both at the time
22 it was an unincorporated association and after it was
23 incorporated. And it's always been clear that the purpose
24 of the --

25 MR. STEELE: Then use the exhibits to explain your

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1 question, and we probably won't have a problem.

2 MR. WELK: Okay. You can do your objections whatever
3 you want, but I'm going to go ahead and ask my questions.
4 You can make your objections.

5 MR. STEELE: I know.

6 MR. WELK: And then we can go talk to Judge Wright
7 about why we're here.

8 MR. STEELE: No, we surely will, but I'm just telling
9 you that's why we're doing it. And for the purpose of
10 moving forward, that's the way we're going to move forward.

11 MR. WELK: Okay. I'm entitled to inquire about the --

12 MR. STEELE: He's entitled to assert the Fifth
13 Amendment.

14 MR. WELK: Mr. Steele, since the court reporter is
15 taking down everything that's said while we're on the
16 record, it's better if we don't talk at the same time. I
17 will try and extend you the courtesy to wait until you've
18 completed your statement before I begin mine, and I'll ask
19 that you extend me the same courtesy.

20 MR. STEELE: I shall.

21 MR. WELK: Okay?

22 MR. STEELE: I would ask the same of you.

23 MR. WELK: Okay.

24 BY MR. WELK:

25 Q Did the structure of the organization change when

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1 Mongols Nation Motorcycle Club, Inc. came into existence?

2 MR. STEELE: Objection. Vague.

3 Don't answer.

4 BY MR. WELK:

5 Q Do you understand the question?

6 A No.

7 Q Okay. What is Mongols Nation Motorcycle Club?

8 What kind of entity is it? Do you know?

9 MR. STEELE: Objection. That's vague.

10 THE WITNESS: I don't understand that. Like, I don't
11 understand what you're getting it.

12 BY MR. WELK:

13 Q Is it a corporation?

14 MR. STEELE: Objection. Vague as to time.

15 THE WITNESS: I don't know.

16 BY MR. WELK:

17 Q Is Mongols Nation Motorcycle Club a corporation?

18 MR. STEELE: Vague as to time.

19 MR. WELK: I cannot comprehend your objection.

20 BY MR. WELK:

21 Q Is --

22 MR. STEELE: Just go ahead and answer, if you
23 understand it.

24 BY MR. WELK:

25 Q Do you understand the question?